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January 31, 2012

Hon. Andrew T. Baxter
United States Magistrate Judge
United States District Court
Northern District of New York
100 S. Clinton Street
P. O. Box 7367
Syracuse, New York 13261-7367

RE: Laskowski, et al. v. Liberty Mutual Fire Insurance Company
Case No. 5:11-CV-340 (GLS/ATB)

Dear Judge Baxter:

The defendant, Liberty Mutual Fire Insurance Company, hereby requests an extension of the deadline for Liberty's expert disclosure for its fire and electrical experts for thirty days, until February 29, 2012.

Following service of Plaintiffs' fire and electrical expert rebuttal on November 28, Liberty undertook additional testing to respond to contentions raised in the Plaintiffs' rebuttals that Liberty's experts had not adequately tested some of the conclusions in their reports. Our experts did not anticipate the Plaintiff's contentions, and we believe this was not an unreasonable position.

The tests included the ignition characteristics of a fiberglass/acrylic bathtub to determine if it could be ignited by an electric charge or an open flame and if ignited, how the fire would develop. The tests also included the ignition characteristics of a bathmat, a 2 x 4, insulating foam, Romex electrical cable, carpet, and paper. Further testing involved the capacity of a GFI outlet to interrupt power following an electrical fault in a grounded, versus ungrounded, electrical system.

In addition to the tests already conducted, we propose to test possible failure modes of the bathtub's electric motor and pump assembly. This issue came up during the testimony of the Plaintiff's electrical expert, Bill Patrick, on January 26, 2012. Mr. Patrick was considering conducting such a test of the electric motor and pump by running it dry to determine if it could reach temperatures that could result in ignition.

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Liberty also requests a one-month extension of the discovery deadline as well as the motion deadline, which is 2/6/12.

I have discussed this matter with opposing counsel and they intend to oppose this application.

I apologize to the Court and opposing counsel for my error in making this application one day after the expiration of the discovery deadline on 1/30/12. I was operating on the belief that the discovery deadline was the last day of January.

Respectfully submitted,



Thomas J. O'Connor

TJO:sbh

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